



# PESTICIDE ESA NEWS

Washington State Department of Agriculture ➔ Endangered Species Program Newsletter

## EPA completes court-ordered effects determinations

On Dec. 23, EPA posted the effects determinations on the remaining 7 pesticide active ingredients named in Washington Toxics Coalition, et al., v. EPA lawsuit.

Active Ingredient	Trade Name	Chemical Classification	Pesticide Class	Buffers Required in Some ESUs
2, 4-D	several	phenoxy	herbicide	No
bromoxynil	Buctril	nitrile	herbicide	Yes
carbofuran	Furadan	carbamate	insecticide	Yes
lindane	Lindane	organochlorine	insecticide	Yes
malathion	several	organophosphate	insecticide	Yes
pendimethalin	Prowl	dinitroaminobenzene	herbicide	No
triclopyr BEE	Garlon 4	pyridine	herbicide	Yes

EPA has met the requirements of the final court order by completing effects determinations for all 54 chemicals. The EPA assessment documentation for the 54 pesticides may be reviewed at [epa.gov/oppfeed1/endorsement/effects/](http://epa.gov/oppfeed1/endorsement/effects/).

Pendimethalin and terrestrial uses of 2, 4-D are no longer subject to court-imposed buffers in Washington state. For the complete list of pesticides subject to buffer zones in Washington state, refer to [agr.wa.gov/PestFert/EnvResources/docs/EffectsbyESU.pdf](http://agr.wa.gov/PestFert/EnvResources/docs/EffectsbyESU.pdf).

EPA determined the use of 2, 4-D to control aquatic weeds “may affect” salmonids in all ESUs. The final ruling in Washington Toxics Coalition, et al., v. EPA requires buffer zones for any of the 54 pesticides that are likely to adversely affect threatened and endangered salmonids.

\* An “ESU” or Evolutionary Significant Unit is a distinctive group of Pacific salmon or steelhead. ➔

## Surface water pesticide monitoring report released

The Washington State Department of Agriculture (WSDA) has released the results of the first year of a three-year study of pesticide residues in salmon-bearing streams.

Two index watersheds representing agricultural and urban land-use patterns were chosen for the study. Samples were taken weekly from April through June 2003. In the agricultural watershed, bi-weekly sampling continued through the summer. Surface water was sampled for 87 registered pesticides.

The results showed predominately very low pesticide residues in both watersheds. Of the 46 pesticides found in the agricultural sampling sites, 2, 4-D was the most common chemical. Samples from the urban stream found 17 pesticides. The most common was pentachlorophenol (a wood preservative).

For more information about the study results, visit the WSDA Endangered Species Program Web site at [agr.wa.gov/PestFert/EnvResources/SWM/default.htm](http://agr.wa.gov/PestFert/EnvResources/SWM/default.htm). ➔



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## QUESTIONS?

For more information about the Endangered Species Program, visit our Web site at [agr.wa.gov/PestFert/EnvResources/EndangSpecies.htm](http://agr.wa.gov/PestFert/EnvResources/EndangSpecies.htm)

We welcome your input. Please send your comments and questions to the WSDA Endangered Species Program at [esp@agr.wa.gov](mailto:esp@agr.wa.gov)

**Awareness**

**Action**

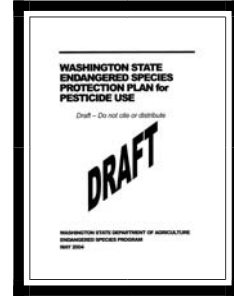
**Recovery**

## WSDA asks for comments on proposed state-initiated plan

WSDA is requesting comments on the draft version of the Washington state-initiated plan, “**Washington State Endangered Species Protection Plan for Pesticide Use.**”

Comments must be received on or before January 31, 2005 and may be submitted electronically by e-mail or fax, or by mail or hand delivery.

E-mail: [esp@agr.wa.gov](mailto:esp@agr.wa.gov)  
Fax: (360) 725.5490  
Mail: Washington State Department of Agriculture  
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The purpose of the Washington state-initiated plan is to formalize the current procedure between WSDA and EPA for the use of state-specific data to make ecological risk assessments and/or Endangered Species Act effects determinations. The plan also establishes a process for WSDA and EPA to collaborate in the development of pesticide use mitigation if needed to protect an endangered species. The mitigation will be crafted to not only to protect endangered species but also retain the pesticide's use.

For specific information about the Washington state-initiated plan, visit the WSDA Endangered Species Program Web site at [agr.wa.gov/PestFert/EnvResources/wastateinitplan.htm](http://agr.wa.gov/PestFert/EnvResources/wastateinitplan.htm) or call (360) 902-2067. ➔

## Update on Endangered Species Act litigation

In **Washington Toxics Coalition, et al., v. EPA**, U.S. District Court Judge John C. Coughenour deferred ruling on two motions filed by Earthjustice pending the appeal decision by the U.S. Court of Appeals for the Ninth Circuit. Earthjustice, the environmental defense firm that represents Washington Toxics Coalition and other environmental groups, may refile the motions following the decision by the Ninth Circuit.

In the first motion, Earthjustice asserts EPA has not adequately implemented the point of sale requirements of **the final order**. The second motion challenges the Washington State Department of Ecology's authorization to apply 2, 4-D directly into salmon-supporting waters to control Eurasian milfoil. Earthjustice alleges the final order's noxious weed exclusion does not allow application of any of the 54 pesticides named in the lawsuit directly into salmon supporting waters

The U.S. Court of Appeals for the Ninth Circuit is currently reviewing the Sept. 14 oral arguments and briefs filed in the appeal of Washington Toxics Coalition, et al., v. EPA.

Unless the court overturns the ruling that created no-spray buffers, the buffers will remain in effect until EPA and NOAA Fisheries complete the consultation process required for the pesticides that EPA has determined are likely to adversely affect salmonids.

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The parties in Washington Toxics Coalition, et al., v. U.S. Department of Interior, et al. have agreed to a schedule for litigation of the recently enacted **counterpart regulations** for pesticide consultations under Section 7 of the Endangered Species Act.

Under the schedule, discovery and motions for summary judgment will not be completed until late summer 2005.

The counterpart regulations change the federal requirements for Section 7 pesticide consultations by providing a more streamlined mechanism to ensure protection of threatened and endangered species. ➔